

MONTANA LEGISLATIVE HISTORY

Chapter 499 19 89

Bill H 561 S _____ Original bill & history C

H. Committee on Education & Cultural Resources S. Committee on Education & Cultural Resources

Hearing Date(s) Feb 13 ☒ C

Hearing Date(s) Mar 13 ☒ C

Feb 17 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Date Out Feb 18 ☒ C

Mar 14 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

HOUSE FINAL STATUS

2/28 REFERRED TO LOCAL GOVERNMENT
 3/14 HEARING
 3/15 COMMITTEE REPORT--BILL CONCURRED
 3/17 2ND READING CONCURRED 47 0
 3/20 3RD READING CONCURRED 48 0
 RETURNED TO HOUSE
 3/23 SIGNED BY SPEAKER
 3/27 SIGNED BY PRESIDENT
 3/28 TRANSMITTED TO GOVERNOR
 3/29 SIGNED BY GOVERNOR
 CHAPTER NUMBER 366 EFFECTIVE DATE: 10/01/89

HB 559 INTRODUCED BY EUDAILY
 ALLOW A MANUFACTURER'S REPRESENTATIVE TO DISPLAY
 MANUFACTURER'S LICENSE PLATES

2/03 INTRODUCED
 2/03 REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT
 2/06 FISCAL NOTE REQUESTED
 2/10 HEARING
 2/10 FISCAL NOTE RECEIVED
 2/11 FISCAL NOTE PRINTED
 2/13 COMMITTEE REPORT--BILL PASSED
 2/15 2ND READING PASSED 98 1
 2/17 3RD READING PASSED 94 0
 TRANSMITTED TO SENATE
 2/18 REFERRED TO HIGHWAYS & TRANSPORTATION
 3/16 HEARING
 3/17 COMMITTEE REPORT--BILL CONCURRED
 3/18 2ND READING CONCURRED 46 0
 3/21 3RD READING CONCURRED 49 0
 RETURNED TO HOUSE
 3/27 SIGNED BY SPEAKER
 3/28 SIGNED BY PRESIDENT
 3/29 TRANSMITTED TO GOVERNOR
 4/01 SIGNED BY GOVERNOR
 CHAPTER NUMBER 404 EFFECTIVE DATE: 10/01/89

HB 560 INTRODUCED BY CONNELLY, ET AL.
 ALLOW TAX CREDIT FOR ACCOMMODATIONS TAXES PAID BY
 CERTAIN PERSONS WHEN ACCOMMODATION IS FOR A
 PURPOSE ASSOCIATED WITH MEDICAL TREATMENT

2/03 INTRODUCED
 2/03 REFERRED TO TAXATION
 2/06 FISCAL NOTE REQUESTED
 2/09 FISCAL NOTE RECEIVED
 2/10 FISCAL NOTE PRINTED
 2/16 HEARING
 3/09 TABLED IN COMMITTEE

HB 561 INTRODUCED BY ADDY, ET AL.
 CLARIFY THAT TENURE OF TEACHER NOT IMPAIRED IF
 TERMINATED IF CERTAIN CONDITIONS EXIST

2/03 INTRODUCED
 2/03 REFERRED TO EDUCATION & CULTURAL RESOURCES

HOUSE FINAL STATUS

2/13 HEARING
 2/18 COMMITTEE REPORT--BILL PASSED AS AMENDED
 2/20 2ND READING PASSED 95 2
 2/21 3RD READING PASSED 96 3

TRANSMITTED TO SENATE

2/28 REFERRED TO EDUCATION & CULTURAL RESOURCES
 3/13 HEARING
 3/14 COMMITTEE REPORT--BILL CONCURRED AS AMENDED
 3/15 2ND READING CONCURRED 47 0
 3/17 3RD READING CONCURRED 46 1

RETURNED TO HOUSE WITH AMENDMENTS

3/31 2ND READING AMENDMENTS CONCURRED 91 3
 4/01 3RD READING AMENDMENTS CONCURRED 92 0
 4/06 SIGNED BY SPEAKER
 4/06 SIGNED BY PRESIDENT
 4/06 TRANSMITTED TO GOVERNOR
 4/08 SIGNED BY GOVERNOR

CHAPTER NUMBER 479 EFFECTIVE DATE: 10/01/89

HB 562 INTRODUCED BY WYATT, ET AL.
 AUTHORIZE LOCAL GOVERNMENTS TO REVIEW AND APPROVE
 EXTENSIONS OF WATER OR SEWER SYSTEMS WITH 50
 OR FEWER CONNECTIONS
 BY REQUEST OF HOUSE LOCAL GOVERNMENT COMMITTEE

2/03 INTRODUCED
 2/03 REFERRED TO LOCAL GOVERNMENT
 2/06 FISCAL NOTE REQUESTED
 2/09 HEARING
 2/13 FISCAL NOTE RECEIVED
 2/14 TABLED IN COMMITTEE
 2/16 FISCAL NOTE PRINTED

HB 563 INTRODUCED BY SPAETH
 APPROPRIATE OIL OVERCHARGE MONEY
 BY REQUEST OF OFFICE OF BUDGET & PROGRAM PLANNING

2/03 INTRODUCED
 2/04 REFERRED TO APPROPRIATIONS
 3/13 HEARING
 3/15 HEARING
 3/16 COMMITTEE REPORT--BILL PASSED AS AMENDED
 3/20 2ND READING PASSED 90 7
 3/22 3RD READING PASSED 89 8

TRANSMITTED TO SENATE

3/22 REFERRED TO FINANCE & CLAIMS
 4/05 HEARING
 4/05 COMMITTEE REPORT--BILL CONCURRED
 4/06 2ND READING CONCURRED 49 0
 4/10 3RD READING CONCURRED 49 0

RETURNED TO HOUSE

4/17 SIGNED BY SPEAKER
 4/17 SIGNED BY PRESIDENT
 4/18 TRANSMITTED TO GOVERNOR
 4/20 SIGNED BY GOVERNOR
 CHAPTER NUMBER 597 EFFECTIVE DATE: 7/01/89

Mary Daubek, representing self and other voters

Opponent Testimony:

Ms. Frank stated that the Farm Bureau represents 3,600 members throughout the state and they feel that due to inflationary trends and increased pressure on monetary resources voting on bond issues should remain as it is under current law or require at least 51 percent participation. She stated that the property owners would have less control and they are the ones who have to pay the bill. (See EXHIBIT 7).

Ms. Thornberg stated that WIFE has some concerns about HB 514. She stated that the farmers and ranchers are always busy in the spring of the year and forget to stop work and vote in school elections. (See EXHIBIT 8).

Ms. Daubek stated she is opposed to HB 514. She states that this bill is against the schools and voters. Ms. Daubek stated that more people need to be influenced to vote, but she does not think that by having a simple majority, teachers and school children taking the notices home to their parents to vote in favor of a school bond is fair.

Questions From Committee Members: None

Closing by Sponsor: Rep. Hansen closed stating that it is frustrating for school officials when they have to manage the money, keep the schools open and teach the children when their hands are tied in this fashion. She stated that it creates an incentive for the school administrators to repeat elections when they have the majority of the votes and the bond fails.

HEARING ON HOUSE BILL 561

Presentation and Opening Statement by Sponsor:

Rep. Addy, House District 94, stated that HB 561 questions when does a teacher lose tenure once they have it? Rep. Addy stated they can lose tenure when they are dismissed and not re-hired. Under the collective bargaining agreements there is usually language employed by the Teachers Association and the school board. If a teacher has to be laid off due to reduction in school enrollments or funding and are re-hired do they get their tenure back or did they ever lose it. Rep. Addy stated that the Montana ruling has been silent on this and Legislature needs to decide and make a ruling on this question. He stated that after 21 months a teacher does not have re-call rights, except in Missoula where the local school district has ruled on a 36 month re-call right. Under this bill, a teacher could be called back and re-instated in the same position as before including the statutory tenure rights. (See EXHIBITS 9 and 10).

Testifying Proponents and Who They Represent:

Phil Campbell, MEA

Terry Minow, MFT

Proponent Testimony:

Mr. Campbell stated that this bill states that if a teacher has tenure and has been laid off and if they retain some kind of employment or relationship with the school district through the collective bargaining agreement and have recall rights, than the teacher should be able to maintain their tenure when they resume their teaching position. (See EXHIBIT 9 and 10).

Ms. Minow stated that this is a fair bill and wanted to go on record in support of HB 561.

Testifying Opponents and Who They Represent:

Bruce Moerer, MSBA

Don Waldron, Supt. of Hellgate Elementary School

Opponent Testimony:

Mr. Moerer stated that under the current tenure law when a teacher is terminated the entire relationship with the district is severed. Mr. Moerer stated that there are a lot of collective bargaining agreements at this time that provide for re-call and those districts that have entered into those collective bargaining agreements and when they re-call those people they think they are hiring a non-tenure teacher. Mr. Moerer suggested an amendment if the Committee Members wanted to consider this bill, on line 5, strike the word "employment" and insert the word "tenure" so the collective bargaining agreement would have to specify those rights.

Mr. Waldron stated he opposes this bill because the majority of the schools have policies that have two year protections.

Questions From Committee Members: Rep. Simpkins asked Mr. Campbell if the teachers are required to have continued education requirements with a tenure status over a period of time? Mr. Campbell stated that in order to maintain a teacher certification they have to have a certain amount of credits and did not feel this bill applied to this.

Rep. Eudaily asked Mr. Waldron if this bill is to be negotiated into the contract why should anything be written into the statutes? Mr. Waldron stated that if a person does not have a negotiated contract everything is automatically included, but if there is a negotiated contract, the contract takes preference over a tenure teacher that is terminated because

of the financial condition of the district requires a reduction in the number of teachers employed.

Rep. Zook asked Mr. Campbell if the contracts that are issued in the spring are subject to approval of the voted levies? Mr. Campbell stated that it varies among the districts, but felt that in the majority of the schools that is not the case.

Closing by Sponsor: Rep. Addy closed stating that he is not trying to change the rules in the middle of the game. He stated that given the unique situation of a tenure teacher being terminated because of financial conditions of the school this bill tries to determine what a fair ruling would be. Rep. Addy stated that tenure is a matter of statute, it is not something that is bargained for, it entitles that person to not be dismissed except for a cause.

HEARING ON HOUSE BILL 569

Presentation and Opening Statement by Sponsor:

Rep. Nisbet, House District 35, opened stating that HB 569 is adding some wording. A minimum of the 3 of the required 7 pupil instruction related days be for instructional and professional development of in-service training. This bill makes it mandatory rather than permissive the closing of the schools for instructional and professional developmental days for those meetings.

Testifying Proponents and Who They Represent:

Eric Feaver, MEA

Terry Minow, MFT

Proponent Testimony:

Mr. Feaver stated that MEA rises in strong support of HB 569.

Mr. Feaver stated that this bill will do a lot for the teachers of the state of Montana, their employers, the board of Trustees, tax payers and students. Mr. Feaver distributed a handout on the policy governing pupil instruction-related days which mandates 2 days in October. Mr. Feaver stated that teachers have an obligation to the public in upgrading their skills. (See EXHIBIT 12).

Ms. Minow urged the support of HB 569.

Testifying Opponents and Who They Represent:

Bruce Moerer, MSBA

Jess Long, SAM

Opponent Testimony:

Mr. Moerer stated that most schools do conduct professional

DAILY ROLL CALL

EDUCATION AND CULTURAL RESOURCES COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 2-13-89

NAME	PRESENT	ABSENT	EXCUSED
Rep. Ted Schye, Chairman	✓		
Rep. Fritz Daily, Vice-Chair.	✓		
Rep. Vicki Cocchiarella	✓		
Rep. Paula Darko	✓		
Rep. Ervin Davis	✓		
Rep. Floyd Gervais	✓		
ok Rep. Dan Harrington	✓		
Rep. John Johnson	✓		
Rep. Tom Kilpatrick	✓		
Rep. Barry "Spook" Stang	✓		
Rep. Diana Wyatt	✓		
Rep. Bill Glaser	✓		
Rep. Ralph Eudaily	✓		
Rep. Richard Nelson	✓		
Rep. John Phillips	✓		
Rep. Richard Simpkins	✓		
Rep. Wilbur Springs, Jr.			✓
ok Rep. Fred Thomas	✓		
Rep. Norm Wallin	✓		
Rep. Tom Zook	✓		

- c. Non-Voluntary Transfers are the movement of an employee to a different building for which the teacher has not applied.

- 1) Requests for the transfer of a teacher which are initiated by the principal, supervisor, or Board shall be communicated in writing with the reason(s) for the transfer stated to the person(s) involved in the transfer prior to the final Board action.

8.11

REDUCTION IN FORCE

- a. A Reduction in Force and the term "layoff" as used herein shall mean any suspension from employment arising out of a reduction in the teacher work force of the District, and shall be separate and distinct from the terms retirement, resignation, non-renewal, discharge, dismissal, or termination.
- b. Grades 7-12, Grades K-6, and Post Secondary Vocational-Technical Center shall be considered as separate units for purposes of this section so that the layoff procedure with respect to one such unit shall not apply to other units.
- c. Non-tenured teachers shall be excluded from this Reduction in Force provision.
- d. If the layoff affects a particular educational program or unit, layoffs will be confined to personnel employed in such program or unit. However, nothing shall be interpreted or applied so as to prohibit the Board from assigning laid off personnel to positions in other units or programs, for which they are qualified, held by less senior teachers.
- e. Definition - Seniority shall be defined as the total length of continuous service, including full credit for service of less than a full duty day or service of less than a full contract year, if a teacher has signed a contract for the ensuing school year with the District. Seniority shall accrue from the date of employment. Seniority will not be broken by approved leaves of absence. Seniority will not be broken by employment by the Board in a position outside the appropriate unit if the Board required certification/license for employment in that position. In the event of identical dates of employment, those holding advanced preparation as of November 15, 1985, shall have precedent. In the event of both identical dates of employment and advanced preparation, rank shall be determined by lot. This order once established shall not change. Teachers hired after November 15, 1985, shall accrue seniority solely by date of hire.
- f. Loss of Seniority - A teacher shall lose his seniority for any of the following reasons:
 - 1) if teacher is dismissed and not subsequently reinstated.
 - 2) if teacher retires.
 - 3) if teacher resigns.
 - 4) if teacher overstates a leave of absence without obtaining an extension of the leave.

- g. Seniority List - A seniority list shall be prepared by the Board at least once a year not later than January 1. Needed corrections to this list shall be presented to the Board in writing prior to January 20. Corrections after this date may be made only with the written agreement of the Board. A copy of this list shall be provided to the Association and shall be available in all buildings for review during regular working hours.
- h. When a reduction in force takes place, the least senior teacher shall be laid off first, provided that the least senior teacher does not have experience and qualifications that are substantially greater than a more senior teacher. If the less senior teacher has such experience and qualifications, a more senior teacher shall be laid off first.
- i. Recall
 - 1) Grievance rights for violation of recall shall exist for up to twenty-one (21) months from the last day of work, but in no event can a grievance be filed beyond the time limits established for Level 1 of the Grievance Procedure if the aggrieved party becomes aware of the occurrence of the grievance or, with reasonable diligence, should have become aware of the occurrence of the grievance.
 - 2) When recalling to the former teacher's District assignment, the most senior teacher shall be the first recalled, provided that a less senior teacher does not have experience and qualifications that are substantially greater than the more senior teacher. In such event, the less senior teacher shall be recalled first.
 - 3) When recalling to a teaching position other than the previous District assignment, the most senior teacher must have experience and qualifications that are substantially greater than all other personnel.
 - 4) The Board shall give written notice of recall from layoffs by sending a registered or certified letter, return receipt requested, to said teacher at the teacher's last known address. The teacher's address as it appears on the Board's record shall be conclusive when used in connection with layoffs, recalls, or other notices to the teacher. It shall be the responsibility of each teacher to notify the Board of any changes of address. If the Board is not able to cause delivery of the notice of recall within fifteen (15) days of the date that such notice was sent, it shall result in forfeiture on the part of the teacher to any further rights to reinstatement.
 - 5) The teacher on recall who signs a contract with another school district shall notify the District immediately or shall forfeit all rights to recall.
 - 6) If the District has knowledge that any teacher on recall is under contract with another school district, the District is under no requirement to offer a contract to a teacher on recall unless the District has received notice that the other employer is aware of the possibility of recall to District employment, and the other employer has agreed to release the teacher upon recall by the District.
- j. The Board shall be the sole determinant of: (1) the number of teachers employed in each school program(s); (2) the continuation, elimination, or modification of each school program(s); and (3) of the quality of each school program(s).

Included in the duty day is the teacher's obligation to participate in faculty meetings, departmental meetings, parent conferences and in-service meetings. Open house functions for the high school or advisory committee meetings which may occur outside the regular school day will be attended at no additional pay to teachers; however, schools will be on professional schedule with dismissal time for teachers the same as for students on the day of Open House. Teachers chaperoning school dances outside the duty day will be on a voluntary basis and paid \$15.00 per dance; this, however, excludes the extra-curricular activities for which the teacher is already getting a stipend as listed in Schedules B-2 (A) and (B). In the event there are insufficient numbers of volunteers, teachers may be assigned to chaperone on a rotational basis of all teachers at their respective schools at the rate of pay specified above.

10.7 Career Increment

Those teachers who are paid at the top of the M.A.+45 column of the schedule and meet the following conditions shall receive one or both of the following career increments in addition to their regular teaching salary.

- A. The first career increment is a monetary sum equal to twice the amount of the largest M.A. increment on the teacher's salary schedule.

These teachers must have completed ten years full-time teaching in the Missoula County High School District, and must have a current satisfactory evaluation report.

- B. The second career increment is a monetary sum equal to one-half the amount of the largest M.A. increment on the teacher's salary schedule.

These teachers must have completed three years at the first career increment level, and must have a current satisfactory evaluation report. This is effective for the 1988-89 salary schedule.

- 10.8 Lunch Period: At their option, all teachers shall have an uninterrupted, duty free period for lunch of forty-five minutes, in addition to the five-minute passing time. At the discretion of the district, an individual school shall be allowed to vote to determine if the work day shall be shortened by reducing the duty free lunch period.

ARTICLE 11

REDUCTION IN FORCE

In the event the Board determines to lay off or recall staff, the following provisions shall apply:

- 11.1 Determination of R.I.F.: The Board will determine which instructional and curricular areas, including all student activities, athletics, and classes will be maintained at their present levels; and which will be reduced or eliminated.
- 11.2 Order of Lay Off: Necessary staff reductions will be achieved through the following steps, in the order listed:
- A. Normal attrition from retirement and resignation.
 - B. Part-time non-tenured teachers.
 - C. If further reductions are required, full-time non-tenured teachers will be laid off next.
 - D. If further reductions are required, tenured teachers will be laid off according to the seniority provision described below.
- 11.3 Seniority Defined: Seniority shall mean the number of years of continuous service, excluding summer session, extended employment, adult and continuing education program, and any other special programs outside the normal work assignment. Part-time teachers shall accrue seniority on a pro-rata basis and shall be able to displace junior teachers. Further, seniority shall be determined as follows:
- A. Seniority shall commence with the first day of actual service to the school district including authorized leaves of absence which allow for accrual of seniority.
 - B. If actual service among or between employees is equal, the level of advanced educational preparation shall govern (i.e.: master's degree in endorsement area over bachelor's degree, major over minor, and at the MVTC, appropriate work experience outside of education).
 - C. If the above-defined criteria are equal, the date of hiring shall govern.
 - D. In case the foregoing criteria are equal, seniority shall be resolved by a flip of the coin or drawing of lots.
- 11.4 Seniority Lists
- A. It shall be the responsibility of the district to develop the seniority list by department and said seniority shall be recognized district-wide.
 - B. This list shall include the certification(s) and endorsement(s) for all tenured teachers.

- C. Seniority for probationary teachers shall not be recognized until tenure is achieved, at which time seniority shall be counted from the first day of continuous service in the regular school term and as subsequently ascertained in 11.3. There shall be similarly maintained a listing of all probationary teachers, listing their area(s) of certification, but not their starting date with the district.
- D. The school district will send seniority confirmation sheets to teachers at the beginning of the school year. Said sheets will be used to develop the district seniority list. The teacher shall indicate that the information is correct or incorrect and forward the confirmation sheets to the personnel office within five working days.

If the district does not concur with the returned information, the teacher will be notified within fifteen working days. The personnel director will meet with the teacher to correct the disputed information. Should the parties not agree after conferring on the matter, the teacher may pursue his/her seniority placement through the grievance procedure after the seniority list has been posted.

- E. The seniority list shall be posted in each district building by November 15th of each school year and a copy of the seniority list shall be delivered to the president of the Association simultaneously with this posting. Any teacher disagreeing with his/her seniority placement shall notify immediately the personnel director.

11.5 Lay Off

- A. A tenured teacher proposed for lay off shall have the right to displace a less senior teacher provided that the teacher has an endorsement in that subject area or provided that the less senior teacher is in a program in which an endorsement is not required.
- B. At such time that a teacher is notified of his/her lay off, said teacher may exercise his/her bumping privilege(s).
- C. Teachers who leave the bargaining unit to serve as administrators in the district shall retain seniority accrued in the bargaining unit but seniority shall not accrue for the period of time spent as an administrator. Administrators who were not previously members of the bargaining unit shall only accrue seniority from the first date of assignment to a position in the bargaining unit.

11.6 Recall

- A. No new teacher shall be employed by the school district while a certified, qualified (i.e.: major, or endorsement with previous teaching experience in the district in that subject area for any part of two years), tenured teacher capable of performing the work is on lay off. Tenured teachers shall first be recalled in inverse order from which they were laid off provided that they must be certified and qualified in the appropriate category and able to perform the work.
- B. Teachers placed on lay off shall retain all seniority and tenure rights they had accrued as of date of lay off, and shall earn additional seniority during the period of lay off, subject to the limitations in (E) below.
- C. When placed on lay off, a teacher shall maintain a current address with the school district and if a position becomes available for the teacher on lay off, the school district shall provide written notice by registered mail, return receipt requested. The teachers shall have fourteen calendar days from the date of receipt of such notice to accept reemployment. Failure on the part of the teacher to accept reemployment within fourteen calendar days of receipt of recall notice shall constitute forfeiture on the part of the teacher to any further rights of reemployment or reinstatement.
- D. If the school district is unable to effect a delivery of a registered letter, return receipt requested, at the last address left with the school district by the teacher, the district after five days shall send a notice by certified mail, and the fourteen day period provided herein shall commence running at the time the notice by certified mail is sent.
- E. Reemployment rights shall automatically cease thirty-six months from the date of lay off. If while on lay off, the teacher gives notice of termination/resignation, said teacher's reemployment rights shall cease.

11.7 Effect

- A. For purposes of this Article, ability or capability to perform the work shall refer only to the teachers' abilities and capabilities within their areas of certification and endorsement. Extra-curricular abilities or capabilities shall not be considered by the district.
- B. Nothing in this Article shall be construed to limit the authority of the School Board to determine the number of employees, the establishment and priority of programs or the right to reduce staff. Therefore, such action shall not be subject to the grievance procedure provided in this Agreement.

EXHIBIT 11
DATE Feb 13, 1989
HB 561

Amendment to House Bill 561
introduced (white) copy

1. page 2, line 5.

Following: continued

Strike: "employment"

Insert: "tenure"

VISITORS' REGISTER

EDUCATION & CULTURAL RESOURCES COMMITTEE

BILL NO. 561

DATE February 13, 1989

SPONSOR Addy

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

complicated formula that is used to decide what the State portion is and the mill levy for those districts, which means that if the tuition is increased the CC will be able to keep those extra dollars without losing their State funding.

Amendments, Discussion, and Votes: Rep. Eudaily moved to adopt the amendments. The motion CARRIED unanimously.

Recommendation and Vote: Rep. Eudaily moved a do pass as amended. Voice vote was taken. The motion CARRIED to DO PASS AS AMENDED. Rep. Nelson voted no.

DISPOSITION OF HOUSE BILL 561

Motion: Rep. Glaser moved HB 561.

Discussion: None

Amendments, Discussion, and Votes: Rep. Glaser moved to adopt the amendment. The amendment is to insert after B on line 5, "has not rejected a rehire offer by the districts since the date of termination". Rep. Glaser withdrew his motion on the amendment.

Rep. Eudaily offered a new amendment on line 6, page 2, strike the "quotes and period", and after "district" insert " not to exceed two contract years".

The motion was made to adopt the new amendment. The question was called. The motion CARRIED unanimously.

Recommendation and Vote: The motion was made to do pass as amended. The question was called. The motion CARRIED unanimously to DO PASS AS AMENDED.

DISPOSITION OF HOUSE BILL 597

Motion: Rep. Stang moved a do pass.

Discussion: None

Amendments, Discussion, and Votes: Rep. Darko moved to adopt the amendments. Rep. Darko explained the amendments. (See Standing Committee Report). Voice vote was taken. The motion CARRIED unanimously.

Recommendation and Vote: Rep. Darko moved a do pass as amended. Voice vote was taken. The motion CARRIED unanimously to DO PASS AS AMENDED.

DISPOSITION OF HOUSE JOINT RESOLUTION 20

Motion: Rep. Harrington moved a do pass.

DAILY ROLL CALL

EDUCATION & CULTURAL RESOURCES

COMMITTEE

DATE February 17, 1989

NAME	PRESENT	ABSENT	EXCUSED
Rep. Ted Schye, Chairman	✓		
Rep. Fritz Daily, Vice-Chairman	✓		
Rep. Vicki Cocchiarella	✓		
Rep. Paula Darko	✓		
Rep. Ervin Davis	✓		
Rep. Ralph Eudaily	✓		
Rep. Floyd Gervais	✓		
Rep. Bill Glaser	✓		
ok Rep. Dan Harrington	✓		
Rep. John Johnson	✓		
Rep. Tom Kilpatrick	✓		
Rep. Richard Nelson	✓		
Rep. John Phillips	✓		
Rep. Richard Simpkins	✓		
Rep. Wilbur Spring, Jr.	✓		
Rep. Barry "Spook" Stang	✓		
ok Rep. Fred Thomas	✓		
Rep. Norm Wallin			✓
Rep. Diana Wyatt	✓		
Rep. Tom Zook	✓		

STANDING COMMITTEE REPORT

February 13, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Education and Cultural Resources report that House Bill 561 (first reading copy -- white) do pass as amended.

Signed: _____
Ted Schve, Chairman

And, that such amendments read:

1. Page 2, line 5.

Following: "rights"

Insert: "that do not exceed 2 contract years"

with the approval of the B of R to add additional tuition.

Closing by Sponsor:

REPRESENTATIVE STICKNEY closed by emphasizing that the community colleges are so bound by the state appropriations for their basic budget and tuition fees that the additional tuition that would be able to be expended on something other than reducing the mandatory would be over and above this. She said that this is something that is not apt to be done very soon. All this is doing is giving the community colleges an option to utilize this at some point and most boards are very conservative. She said that this would be good option to be "setting in the wings," to utilize as budgeting becomes more stabilized.

HEARING ON HB 561

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE KELLY ADDY, House District #94, stated that this bill is technical in that it deals with tenure rights. He said there are big changes going on in the educational field and these days it may not be true that the most common reason for a teacher being terminated is simply non renewal without tenure. Now if a teacher has tenure, their job is still for from secure, given the fluctuation of school districts. In Billings 100 teachers were laid off and there are major impacts being looked at straight across the board. This of course he said reaches into the rank of the non tenured teachers. If a teacher is tenured in this situation and laid off simply due to this financial condition of the district, which requires a reduction in force, it is unclear presently under Montana's tenure laws whether tenure is lost or not. This would be an inequitable result and an unfortunate result. We are leaving questions of quality control to change in fiscal climate.

All this bill means he explained, is to say that when these circumstances occur, tenure is not lost by the teacher.

One technical point on Page 2, Line 6, the second condition that appears is continued employment rights are provided in the collectively bargained contract of the district. The House inserted "continued employment rights that do not exceed two contract years." If this committee can make sense out of this he asked that they clarify the language or strike it.

List of Testifying Proponents and What Group they Represent:

PHIL CAMPBELL, The Montana Education Association
TERRY MINOW, The Montana Federation of Teachers

Testimony:

PHIL CAMPBELL of the MEA, stood in support of HB 561. He said this bill allows a tenured teacher to keep their tenure if they have been laid off and if a collective bargaining agreement has a lay off procedure in it. They have employment rights under this contract to come back to the district (recall rights). So that in a situation of a school district laying off a teacher for financial reasons, the teacher can come back as a tenured teacher.

He went on to say that this would be left to the local school district, "local control." If a school district chooses to bargain into the contract a lay off procedure that includes recall rights, then the tenured teacher would not lose their tenured statutory right. If they were recalled they could come back as a tenured teacher.

He pointed out that the MSBA would want to strike the word "employment" and Mr. Campbell submitted to the committee that tenure is not a negotiable subject, it is a statutory right that is acquired on the signing of the fourth consecutive contract, and is not negotiable.

What is wanted with this bill is to protect the rights of someone who has tenure and through no fault of their own nor the districts is laid off, in which case the teacher will retain the statutory right of tenure if recalled.

He said the majority of school districts extends their recall right for about two years and one district in Missoula provides recall rights for thirty-six months. The amendment that was put in in the house would limit the local school district in bargaining in what ever they would think is appropriate.

TERRY MINOW of the MFT, stated that they strongly support HB 561. This bill she said simply clarifies the rights of teachers under the tenure statues. Tenure should not be lost just because of a reduction of force. A teacher who is recalled under this situation should maintain this tenure.

She urged a do pass recommendation and she asked that the committee realize that teachers will be facing "reductions in force, in the next few years in Montana."

List of Testifying Opponents and What Group They Represent:

None

Testimony:

BRUCE MOERER stated that this bill did arise out of a Great Falls situation where a tenured teacher was properly terminated and this Supreme Court decision asked if the recall agreement and the collective bargaining agreement reinstated tenure.

He explained that the amendment proposed on Page 6, Line 2, states that the union and the school board can negotiate when they negotiate a recall provision. The bill currently reads that the teacher automatically comes back with tenure and what this amendment does when they negotiate a recall provision is that they can either have a recall provision that would bring them back as a tenured teacher or the recall provision could be negotiated in to bring them back as a non tenured teacher. If it is going to be negotiated both options he said would be wanted. This amendment preserves two options when a recall provision is negotiated.

Questions From Committee Members:

Senator Pinsoneault asked if there were any high school districts in the state that do not have a bargaining agent. Mr. Campbell replied yes that he had represented teachers that did not have a masters agreement.

Senator Mazurek asked why the amendment inserted that the contract not exceed two contract years. Eric Feaver of the MEA said that he had been present at the House Education Committee meeting when this language was discussed and Representative Eudaily suggested this language. The purpose was to not allow the possibility of a teacher being terminated in one school district and finding a job in another school district, teaching until eligible for tenure and then being recalled to a tenure position in the district of origin. He went on to explain that in this bill it is saying if there is a recall provision, tenure would only accrue for the teacher, up to two years. After two years tenure would only apply for up to two years for the recall provision by the statute. The House Education Committee was concerned that a teacher could be gone whether even to another state and/or another job indefinitely and then perhaps be recalled after a long period of time and still have tenure.

Closing by Sponsor:

REPRESENTATIVE ADDY closed by saying that he would oppose the amendment that was offered by Mr. Moerer for the reasons stated by Mr. Campbell. Tenure is a statutory right and should not be a subject for bargaining.

He pointed out that it is important to treat people fairly and "...in hard times when adverse decisions need to be made, it is even more important and depriving someone of their statutory rights is not an act of fairness or a wise public policy."

DISPOSITION OF HB 561

Discussion:

Senator Farrell stated that he assumed with a contract the two year situation would be negotiated and he wondered if the amendment was valid.

Mr. Campbell explained that recall rights are for three years in the Missoula contracts and under this provision, tenure could be retained for only two years.

Dave Cogley stated that this was not clear in this bill. The employment rights relate to those which provide for tenure. If the duration of the recall provision is wanted to be separate from the continuation of tenure rights, this needs to be clarified.

Senator Farrell asked if it would be appropriate to strike "...that do not exceed two contract years."

Dave Cogley replied that this would take care of it and then there would not be any durational limitation and it would be left to the negotiated contract.

Amendments and Votes:

Senator Regan moved that the committee strike the language put in by the House on Page 6, Line 2 of HB 561, "...that do not exceed two contract years."

Senator Regan called for the question.

THE MOTION CARRIED TO STRIKE THE AMENDMENT.

Recommendation and Vote:

Senator Brown recommended that HB 561 be concurred in as amended.

Senator Farrell called for the question.

THE MOTION CARRIED UNANIMOUSLY.

Senator Farrell will carry HB 561 to the floor of the Senate.

DISPOSITION OF HB 455

Discussion:

Senator Regan asked if a two year sunset could be put on the bill to see if there would be problems and if it could be lived with for two years or if they discover there is a problem it will sunset and it will not have to be fought with. Otherwise then it could be renewed.

Dave Cogley stated that a sunset date of entering into a tuition agreement, and a separate date for the payment of tuition under the agreement would need to be included. This would be two different dates. He said this could be taken care of in amending HB 455.

Amendments and Votes:

Senator Regan moved to amend HB 455, with an automatic two year sunset of June 30, 1992.

Senator Nathe called for the question.

THE MOTION TO AMEND HB 455 CARRIED UNANIMOUSLY.

Recommendation and Vote:

Senator Regan moved that HB 455 do pass as amended.

THE MOTION THAT HB 455 BE CONCURRED IN AS AMENDED, CARRIED UNANIMOUSLY.

Senator Regan will carry HB 455 to the floor of the Senate.

ROLL CALL

EDUCATION

COMMITTEE

5th LEGISLATIVE SESSION -- 1987

Date 3-13-89

NAME	PRESENT	ABSENT	EXCUSED
<u>Chairman Swede Hammond</u>	✓		
<u>Vice Chairman Dennis Nathe</u>	✓		
<u>Senator Chet Blaylock</u>	✓		
<u>Senator Bob Brown</u>	✓		
<u>Senator Dick Pinsoneault</u>	✓		
<u>Senator William Farrell</u>	✓		
<u>Senator Pat Regan</u>	✓		
<u>Senator John Anderson Jr.</u>	✓		
<u>Senator Joe Mazurek</u>	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

March 14, 1989

MR. PRESIDENT,

We, your committee on Education and Cultural Resources, having had under consideration HB 561 (third reading copy -- blue), respectfully report that HB 561 be amended and as so amended be concurred in:

Sponsor: Addy (Farrell)

1. Page 2, lines 6 and 7.

Strike: "THAT DO NOT EXCEED 2 CONTRACT YEARS"

AND AS AMENDED BE CONCURRED IN

Signed: H. W. Hammond

H. W. Hammond, Chairman

(1:00 MWF)

[illegible]

(Please leave prepared statement with Secretary)